

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

JEAN PIERRE REY and ILZE
SILARASA,

Plaintiffs,

v.

MICHEL REY, et al.,

Defendants.

CASE NO. C14-5093 BHS

ORDER DENYING PLAINTIFFS'
MOTION TO APPOINT A
RECEIVER AND REQUIRING
DEFENDANTS TO SHOW
CAUSE

This matter comes before the Court on Plaintiffs Jean Pierre Rey and Ilze Silarasa's ("Plaintiffs") motion to appoint a receiver (Dkt. 19). The Court has considered the pleadings filed in support of and in opposition to the motion and the remainder of the file and hereby denies the motion for the reasons stated herein.

I. PROCEDURAL HISTORY

On January 31, 2014, Plaintiffs filed a complaint against Defendants Michel Rey, Renee Rey, US Investment Group Corporation, US Growing Investments, Inc., Visitrade, Inc., Builders Surplus Northwest, Inc., and Nevawa, Inc. (collectively "Defendants").

1 Dkt. 1. Plaintiffs assert numerous causes of actions based on alleged breach of contract
2 and alleged abuse of a power of attorney. *Id.*

3 On March 13, 2014, Plaintiffs filed a motion for appointment of a receiver for the
4 Defendant corporations and for the personal property in the possession of the individual
5 Defendants. Dkt. 19. On, March 24, 2014, Defendants responded. Dkt. 27. On March
6 28, 2014, Plaintiffs replied. Dkt. 37.

7 **II. FACTUAL BACKGROUND**

8 This matter involves numerous business dealings between two brothers, Plaintiff
9 Jean Pierre Rey and Defendant Michel Rey. Jean Pierre alleges that Michel has made
10 secret transfers of money and assets to various corporations. *See, e.g.*, Dkt. 14 at 4–6.
11 On the other hand, Michel Rey alleges that Jean Pierre knew of all of the transfers and
12 transactions and that Jean Pierre has only become interested in the Defendant
13 corporations' dealings and assets after experiencing severe financial difficulties in late
14 2013. *See, e.g.*, Dkt. 27 at 3–7.

15 **III. DISCUSSION**

16 Federal law governs appointment of a receiver when the federal court's
17 jurisdiction is based on diversity. *Canada Life Assurance Co. v. LaPeter*, 563 F.3d 837,
18 842-843 (9th Cir. 2009). The court has "broad discretion" to appoint a receiver, based on
19 a "host of relevant factors." *Id.* at 845. The factors include, but are not limited to:

20 (1) whether [the party] seeking appointment has a valid claim; (2) whether
21 there is fraudulent conduct or the probability of fraudulent conduct by the
22 defendant; (3) whether the property is in imminent danger of being lost,
concealed, injured, diminished in value or squandered; (4) whether legal
remedies are inadequate; (5) whether the harm to plaintiff by denial of the

1 appointment would outweigh injury to the party opposing appointment; (6)
2 the plaintiff's probable success in the action and the possibility of
3 irreparable injury to plaintiff's interest in the property; and (7) whether
[the] plaintiff's interests sought to be protected will in fact be well served
by the receivership.

4 *Id.* at 844 (citations and quotations omitted). "[N]o one factor is dispositive." *Id.* at 845.
5 "[A]ppointing a 'receiver is an extraordinary equitable remedy,' which should be applied
6 with caution." *Id.* (quoting *Aviation Supply Corp. v. R.S.B.I. Aerospace, Inc.*, 999 F.2d
7 314, 316 (8th Cir. 1993)).

8 In this case, Plaintiffs have failed to show that appointing a receiver is necessary
9 or appropriate. This matter involves numerous questions of facts with vastly divergent
10 stories regarding the parties' relationships and business dealings. A review of Plaintiffs'
11 proposed order shows the extent of the findings of fact the Court would have to make in
12 order to grant relief at this early stage of the proceeding. The Court would essentially be
13 forced to adopt Plaintiffs' version of events over Defendants', which is extraordinary and
14 inappropriate now. Moreover, Plaintiffs have failed to show that any property is in
15 imminent danger of being lost or squandered. Therefore, the Court denies Plaintiffs'
16 motion to appoint a receiver.

17 Defendants, however, have conceded that less drastic remedies are appropriate.
18 Specifically, Defendants assert that they

19 are prepared to comply with the following conditions: (i) Defendants will
20 provide Plaintiffs with monthly expense reports certified by Michel Rey
21 and Bryan Luque; (ii) Defendants will not dispose of any of the properties
22 held by the corporations without prior court approval; (iii) there would be
no distributions from the corporations to Michel Rey beyond his normal
salary of \$4,000 per month; (iv) there would be an allowance for attorneys'
fees for this matter with the aggregate amount showing in the financial

1 statements; and (v) the parties would be able to revisit the preceding
2 conditions at any time.

3 Dkt. 27 at 11. The Court finds that these conditions may be appropriate as protection for
4 Plaintiffs' concerns regarding the corporations or personal property while this matter
5 proceeds. Therefore, the Court requests that Defendants show cause, if any they may
6 have, why the Court should not enter an order requiring that these conditions be imposed.
7 If Defendants have no objections to these conditions, the parties may meet and confer and
8 file a stipulated motion. Regardless, Defendants are required to file either a response or a
9 stipulated motion no later than May 2, 2014.

10 **IV. ORDER**

11 Therefore, it is hereby **ORDERED** that Plaintiffs' motion to appoint a receiver
12 (Dkt. 19) is **DENIED** and Defendants must **SHOW CAUSE** or otherwise respond no
13 later than May 2, 2014.

14 Dated this 10th day of April, 2014.

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16 **BENJAMIN H. SETTLE**
17 United States District Judge
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